

**Thomas Jefferson to Henry Knox, August 26, 1790, from  
the Works of Thomas Jefferson in Twelve Volumes.  
Federal Edition. Collected and Edited by Paul Leicester  
Ford.**

**TO THE SECRETARY OF WAR J. MSS. (HENRY KNOX)**

New York Aug. 26. 1790.

Dear Sir, —On the hasty view which the shortness of time permits me to take of the Treaty of Hopewell, the act of cession of N. Carolina & the act of acceptance by Congress, I hazard the following sentiments:

Were the treaty of Hopewell, and the act of acceptance of Congress to stand in any point in direct opposition to each other, I should consider the act of acceptance as void in that point; because the treaty is a law made by two parties, and not revocable by one of the parties either acting alone or in conjunction with a third party. If we consider the acceptance as a legislative act of Congress, it is the act of one party only; if we consider it as a treaty between Congress & N. Carolina, it is but a subsequent treaty with another power, & cannot make void a preceding one, with a different power.

But I see no such opposition between these two instruments. The Cherokees were entitled to the sole occupation of the lands within the limits guaranteed to them. The State of North Carolina, according to the *jus gentium* established for America by universal usage, had only a right of preemption of these lands against all other nations. It could convey then to it's citizens only this right of preemption, and the right of occupation could not be united to it until obtained by the U. S. from the Cherokees. The act of cession of N. Carolina only preserves the rights of it's citizens, in the same state as

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they would have been, *had that act never been passed*. It does not make imperfect titles, perfect; but only prevents their being made worse. Congress, by their act, accept on these conditions. The claimants of N. C. then and also the Cherokees are exactly where they would have been, had neither the act of cession nor that of acceptance been ever made; that is, the latter possess the right of occupation, & the former the right of preemption.

Tho' these deductions seem clear enough, yet the question would be a disagreeable one between the general government, a particular government, & individuals, and it would seem very desirable to draw all the claims of preemption within a certain limit, by commuting for those out of it, and then to purchase of the Cherokees the right of occupation.